

AMENDED IN SENATE FEBRUARY 7, 2005

SENATE BILL

No. 50

Introduced by Senators Campbell and Maldonado

**(Principal coauthors: Senators Alquist, Bowen, Cedillo, Dutton,
Machado, Morrow, Poochigian, Runner, and Scott)**

**(Coauthors: Senators Battin, Cox, Ducheny, Figueroa, Lowenthal,
and Murray)**

**(Coauthors: Assembly Members Benoit, Chan, DeVore, Dymally,
Emmerson, Haynes, Shirley Horton, Huff, Maze, Nakanishi, Niello,
Runner, Spitzer, Tran, and Walters)**

January 10, 2005

An act to *amend Section 24357 of, and to add Section 17206 to, the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.*

LEGISLATIVE COUNSEL'S DIGEST

SB 50, as amended, Campbell. Income *and corporation* taxes: contributions deduction: tsunami victims.

The Personal Income Tax Law *and the Corporation Tax Law*, in specified conformity to federal ~~income~~ income tax laws, ~~allows~~ allow a deduction for charitable contributions, as defined, made during the taxable year.

This bill would, *under both laws*, allow any cash charitable contribution made in January 2005, for the relief of victims in areas affected by the December 26, 2004, Indian Ocean tsunami to be treated as if made during the 2004 taxable year.

This bill would take effect immediately as a tax levy.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 17206 is added to the Revenue and
2 Taxation Code, to read:

3 17206. (a) For purposes of Section 17201, Section 170 of the
4 Internal Revenue Code, *as amended by Public Law 109-1*, shall
5 be applied to allow a taxpayer to elect to treat any contribution
6 described in subdivision (b) made in January 2005, as if that
7 contribution was made on December 31, 2004, and not in
8 January 2005.

9 (b) A contribution is described in this subdivision if that
10 contribution is a cash contribution made for the relief of victims
11 in areas affected by the December 26, 2004, Indian Ocean
12 tsunami for which a charitable contribution deduction is
13 ~~allowable under Section 17201.~~

14 ~~SEC. 2.~~allowable under Section 17201.

15 SEC. 2. Section 24357 of the Revenue and Taxation Code is
16 amended to read:

17 24357. (a) There shall be allowed as a deduction any
18 charitable contribution (as defined in Section 24359) payment of
19 which is made within the taxable year. A charitable contribution
20 shall be allowable as a deduction only if verified under
21 regulations prescribed by the Franchise Tax Board.

22 (b) (1) In the case of a corporation reporting its income on the
23 accrual basis, the corporation may elect to treat the contribution
24 as paid during that taxable year if both of the following occur:

25 (A) The board of directors authorizes a charitable contribution
26 during the taxable year.

27 (B) Payment of the contribution is made after the close of that
28 taxable year and on or before the 15th day of the third month
29 following the close of the taxable year.

30 (2) The election allowed by paragraph (1) may be made only
31 at the time of the filing of the return for the taxable year, and
32 shall be signified in the manner as the Franchise Tax Board shall
33 by regulations prescribe.

34 (c) For purposes of this section, payment of a charitable
35 contribution that consists of a future interest in tangible personal
36 property shall be treated as made only when all intervening
37 interests in, and rights to the actual possession or enjoyment of,
38 the property have expired or are held by persons other than the

1 taxpayer or those standing in a relationship to the taxpayer
2 described in Section 24428. For purposes of the preceding
3 sentence, a fixture which is intended to be severed from the real
4 property shall be treated as tangible personal property.

5 (d) No deduction shall be allowed under this section for
6 traveling expenses (including amounts expended for meals and
7 lodging) while away from home, whether paid directly or by
8 reimbursement, unless there is no significant element of personal
9 pleasure, recreation, or vacation in that travel.

10 (e) (1) Section 170(f)(8) of the Internal Revenue Code,
11 relating to substantiation requirement for certain contributions,
12 shall apply, except as otherwise provided.

13 (2) No deduction shall be denied under Section 170(f)(8) of
14 the Internal Revenue Code, relating to substantiation requirement
15 for certain contributions, upon a showing that the requirements in
16 Section 170(f)(8) of the Internal Revenue Code have been met
17 with respect to that contribution for federal purposes.

18 (f) Section 170(f)(9) of the Internal Revenue Code, relating to
19 the denial of the deduction for lobbying activities shall apply,
20 except as otherwise provided.

21 (g) (1) *Notwithstanding any other provision of law to the*
22 *contrary, for purposes of this section and Section 24341, Section*
23 *170 of the Internal Revenue Code, as amended by Public Law*
24 *109-1, shall be applied to allow a taxpayer to elect to treat any*
25 *contribution described in paragraph (2) made in January 2005,*
26 *as if that contribution was made on December 31, 2004, and not*
27 *in January 2005.*

28 (2) *A contribution is described in this paragraph if that*
29 *contribution is a cash contribution made for the relief of victims*
30 *in areas affected by the December 26, 2004, Indian Ocean*
31 *tsunami for which a charitable contribution deduction is*
32 *allowable under this section.*

33 SEC. 3. This act provides for a tax levy within the meaning of
34 Article IV of the Constitution and shall go into immediate effect.